

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
NO. 22-CR-00124(5) (NEB-TNL)**

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UNITED STATES OF AMERICA,

Plaintiff,

v.

SAID SHAFII FARAH,

Defendant.

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**NOTICE OF MOTION AND MOTION  
FOR ORDER TO SHOW CAUSE**

**TO: THE HONORABLE NANCY E. BRASEL, JUDGE OF UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MINNESOTA, AND ALL PARTIES AND THEIR COUNSEL OF RECORD.**

**AFRO PRODUCE LLC, 2554 COMO AVENUE, UNIT 3, ST. PAUL, MN 55108**

**COMMISSIONER WILLIE JETT, MINNESOTA DEPARTMENT OF EDUCATION, 400 NE STINSON BOULEVARD, MINNEAPOLIS, MN 55413**

**NOTICE OF MOTION**

PLEASE TAKE NOTICE that on **March 22, 2024 at 10:00 a.m.**, or as soon thereafter as counsel may be heard, counsel for Defendant Said Farah will bring a motion before the Honorable Nancy E. Brasel, Judge of United States District Court for the District of Minnesota, 300 South Fourth Street, Courtroom 13W, Minneapolis, MN, 55415 for an Order to Show Cause as to why the Minnesota Department of Education and Afro Produce LLC should not be held in contempt of court for failing to produce subpoenaed documents in accordance with Fed. R. Crim. P. 17(c).

Defendant Said Farah's Motion is based upon all of the files, records, and proceedings herein, as well as the arguments of counsel and the supporting declaration and exhibits filed and served herewith.

### **MOTION**

Pursuant to Fed. R. Crim. P. 42, Defendant Said Farah, by and through his undersigned counsel, hereby moves the Court for an Order that Afro Produce and the Minnesota Department of Education appear and show cause for why they should not be held in contempt of court for failure to produce subpoenaed documents in accordance with Fed. R. Crim. P. 17(c). Defendant Said Farah seeks this relief on the following grounds:

1. On September 13, 2022, a federal grand jury returned a 43-count Superseding Indictment against Said Farah and seven co-defendants,<sup>1</sup> charging defendants with participating in a \$40 million scheme to defraud a collection of programs it refers to as the Federal Child Nutrition Program. (ECF No. 57.) Among other things, the indictment alleges that this group of defendants fraudulently misappropriated program funds by creating dozens of shell companies to enroll in the Program as Federal Child Nutrition sites and falsely claiming to serve meals to thousands of children a day from April 2020 to January 2022. (*Id.*) Mr. Farah is alleged to have created a "shell company" called Bushra Wholesalers that "was used to receive and launder more than \$4.5 million in Federal Child

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<sup>1</sup> Co-defendants, listed in the following order, include Abdiaziz Shafii Farah, Mohamed Jama Ismail Mukhtar Sharif, Mahad Ibrahim, Abdimajid Mohamed Nur, Abdiwahab Maalim Aftin, and Hayat Mohamed Nur.

Nutrition Program funds . . . .” (*Id.*) He is thus charged with counts of Wire Fraud Conspiracy (Count 1), Wire Fraud (Count 12), Conspiracy to Commit Federal Programs Bribery (Count 13), Federal Programs Bribery (Counts 16, 18, and 19), Conspiracy to Commit Money Laundering (Count 20), and Money Laundering (Counts 21 and 40). (*Id.*)

2. On or about February 5, 2024 the undersigned prepared a subpoena duces tecum, pursuant to Fed. R. Crim. P. 17(c), addressed to Afro Produce, requesting, inter alia, the return of documentation or data concerning the purchase of goods or services by Bushra Wholesalers from Afro Produce between January 1, 2020 and January 31, 2022. The subpoena instructed Afro Produce to produce the documents in the United States District Court for the District of Minnesota, before the Honorable Tony N. Leung, in Courtroom 9W, U.S. Courthouse, 300 South Fourth Street, Minneapolis, MN 55415 on February 29, 2024 at 10:00 a.m. Alternatively, the subpoena informed Afro Produce that the documents could be transmitted to the undersigned electronically via email. A copy of the Subpoena to Afro Produce is attached as Exhibit A to the Declaration of Clayton J. Carlson in Support of Motion for Order to Show Cause (“Carlson Declaration”).
3. On or about February 7, 8, and 9, a process server attempted unsuccessfully to serve the above-referenced subpoena on Afro Produce at its registered office address at 2620 Bloomington Ave. S. #1, Minneapolis, MN 55407. On February 15, 2024, a process server successfully accomplished service at an alternative address for Afro Produce: 2554 Como Avenue, St. Paul, MN 55108. A copy of

the affidavits of service and attempted service are attached as Exhibit B to the Carlson Declaration.

4. On or about February 5, 2024, the undersigned also prepared a subpoena duces tecum, pursuant to Fed. R. Crim. P. 17(c), addressed to Willie Jett, Commissioner of the Minnesota Department of Education. Among other things, the subpoena requested the return of documentation or data concerning Bushra Wholesalers' participation in the Child Adult Care Food Program and the Summer Food Services Program between January 1, 2020 and January 31, 2022. The subpoena instructed Commissioner Jett to produce the documents in the United States District Court for the District of Minnesota, before the Honorable Tony N. Leung, in Courtroom 9W, U.S. Courthouse, 300 South Fourth Street, Minneapolis, MN 55415 on February 29, 2024 at 10:00 a.m. Alternatively, the subpoena notified Commissioner Jett that the documents could be transmitted to the undersigned electronically via email. A Copy of the Subpoena to Commissioner Jett is attached as Exhibit C to the Carlson Declaration.
5. On or about February 6, 2024, a process server successfully accomplished service of this subpoena upon Daron Korte, Assistant Commissioner of the Minnesota Department of Education, at 400 Northeast Stinson Boulevard, Minneapolis, MN 55413. A copy of the affidavit of service is attached as Exhibit D to the Carlson Declaration.
6. To date, counsel has not received documents from either Afro Produce or the Minnesota Department of Education in response to the subpoenas. Counsel has

likewise not had or received any communications from either Afro Produce or the Minnesota Department of Education regarding either subpoena.

7. Said Farah hereby respectfully requests that the Court issue an Order requiring Afro Produce and the Minnesota Department of Education to appear and show cause for why they should not be held in contempt of court for failure to produce the subpoenaed documents in accordance with Fed. R. Crim. P. 17(c).

This motion is based upon the Superseding Indictment, all of the records and files in the above-captioned matter, and any and all other matters which may be presented prior to or at the time of the hearing of this motion, which is hereby requested.

**MASLON LLP**

Dated: March 14, 2024

By: *s/ Clayton J. Carlson*

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**ATTORNEYS FOR DEFENDANT SAID  
SHAFII FARAH**